

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

JOHN DAVID CORMIER

PLAINTIFF

v. Civil No. 07-5190

STEPHEN CORKERN, Chief of
Police of the Huntsville Police
Department; CAPTAIN ROBERT BOYD,
Madison County Detention Center;
JAILER REBECCA MOUNCE, Madison
County Detention Center; and
OFFICER MIKE LIVERMORE

DEFENDANTS

ORDER

Now on this 26th day of August, 2009, comes on for consideration the **Magistrate Judge's Report and Recommendation** (R&R) issued by the Honorable James Marschewski, United States Magistrate Judge for the Western District of Arkansas (Doc. #58), and the Court, being well and sufficiently advised, finds and orders as follows with respect to the same:

1. In his Report and Recommendation (R&R), Judge Marschewski made the following recommendations:

* that plaintiff be allowed to voluntarily dismiss all his claims against defendant, Mike Livermore, **except** his claim alleging **excessive force**;

* that plaintiff be allowed to voluntarily dismiss his claims against defendants, Captain Robert Boyd and Jailer Rebecca Mounce, based upon alleged use of **excessive force** -- thereby leaving in place a single claim against Boyd and Mounce based upon

alleged **denial of medical care;**

Judge Marschewski opined in the R&R that allowing plaintiff to voluntarily dismiss the claims above-mentioned would result in a defacto dismissal of all claims against defendant, Stephen Corkern.

It further appears that if the motions for summary judgment mentioned are all granted, the result will be a complete termination of plaintiff's case.

2. John David Cormier filed objections (Doc. # 59) to the R&R. The Court has carefully considered these objections and concludes that they are without merit. Accordingly, they will be overruled.

3. After full review of the R&R, the objections and all other matters properly before it, the Court concludes that the R&R is sound both as to fact and law and that it should be approved and its recommendations fully implemented.

IT IS, THEREFORE, ORDERED as follows:

* that plaintiff should be, and hereby is, allowed to **voluntarily dismiss all claims with the exception of his excessive force claim against Mike Livermore and his denial of medical care claim against Captain Robert Boyd and Jailer Rebecca Mounce;**

* that, upon plaintiff's voluntary dismissal of claims as permitted, no viable claims remain as against defendant, Stephen Corkern, and, accordingly, it is ordered that plaintiff's claims

against defendant, Stephen Corkern, should be, and they hereby are,
dismissed, with prejudice;

* that plaintiff's objections to the R&R should be, and they hereby are, **overruled;**

* that the said R&R should be, and it hereby is, **approved in toto** and ordered implemented;

* that the **motion for summary judgment (Doc. # 36) filed by Mike Livermore** should be, and hereby is, **granted** and plaintiff's complaint against defendant, Mike Livermore, is hereby **dismissed, with prejudice;** and

* that the **motion for summary judgment (Doc. #41) filed by separate defendants Captain Boyd and Chief Jailer Mounce** should be, and hereby is, **granted** and plaintiff's complaint against defendant, Captain Boyd and Jailer Mounce should be, and hereby are, **dismissed, with prejudice.**

IT IS SO ORDERED.

/s/ Jimm Larry Hendren
JIMM LARRY HENDREN
UNITED STATES DISTRICT JUDGE